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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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WILLIAM TRACY FOWLER,

Plaintiff,

vs.

WESTMINSTER COLLEGE OF SALT  
LAKE,

Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANT'S  
RULE 60(b) MOTION AND  
MOTION TO EXTEND TIME TO  
RESPOND TO ATTORNEYS' FEE  
MOTION**

Case No. 2:09-cv-591-DN

District Judge David Nuffer

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The court granted Plaintiff's Application for Attorneys' Fees and entered final judgment in this matter on September 25, 2012.<sup>1</sup> Later that day, and after judgment had already been entered, Defendant filed an untimely memorandum in opposition to Plaintiff's fee application, along with a motion asking the court to accept the untimely brief.<sup>2</sup> The following day, September 26, 2012, Defendant filed its Rule 60(b) Motion to set aside the judgment on grounds of mistake, inadvertence, and excusable neglect under Fed. R. Civ. P. 60(b)(1).<sup>3</sup>

"Rule 60(b) relief is extraordinary and may be granted only in exceptional circumstances."<sup>4</sup> The court declines to grant Rule 60(b) relief in this case. Defendant's September 24, 2012 deadline for opposing Plaintiff's fee application was set by order of the court

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<sup>1</sup> Memorandum Decision and Order Granting Plaintiff's Application for Attorneys' Fees and Directing Entry of Judgment, docket no. 264, filed on Sep. 25, 2012; Judgment in a Civil Case, docket no. 265, filed on Sep. 25, 2012.

<sup>2</sup> Opposition to Fee Application, docket no. 266, filed on Sep. 25, 2012; Motion to Extend Time to Respond to Attorneys' Fee Motion, docket no. 267, filed on Sep. 25, 2012.

<sup>3</sup> Rule 60(b) Motion, docket no. 269, filed on Sep. 26, 2012.

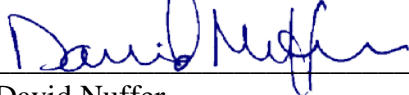
<sup>4</sup> *Dronsejko v. Thornton*, 632 F.3d 658, 664 (10th Cir. 2011) (internal quotations omitted).

just two weeks earlier on September 11, 2012.<sup>5</sup> Having received no timely opposition from Defendant, on September 25, 2012, the court reviewed Plaintiff's fee application on its merits and granted Plaintiff his attorneys' fees, but declined to enhance the fee award by 30% as requested by Plaintiff.<sup>6</sup> The arguments made in Defendant's opposition memorandum would not substantially alter the court's decision on Plaintiff's fee application. Accordingly, there are no exceptional circumstances justifying relief from the judgment entered in this matter under Fed. R. Civ. P. 60(b)(1).

IT IS THEREFORE ORDERED that Defendant's Rule 60(b) Motion (docket no. 269) and Motion to Extend Time to Respond to Attorneys' Fee Motion (docket no. 267) are DENIED.

Dated October 5, 2012.

BY THE COURT:



David Nuffer  
United States District Judge

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<sup>5</sup> Docket Text Order, docket no. 254, dated Sep. 11, 2012. As noted in the September 11 order, the parties had already missed the deadlines established by the court at the hearing held on July 3, 2012.

<sup>6</sup> Memorandum Decision and Order Granting Plaintiff's Application for Attorneys' Fees and Directing Entry of Judgment at 2, docket no. 264, filed Sep. 25, 2012.